

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

September 6, 2007

The Marlboro Township Council held its regularly scheduled meeting on September 6, 2007 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Cantor opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the regularly scheduled meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 5, 2007; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilwoman Morelli, Councilman Pernice, Council Vice President Rosenthal, Councilwoman Tragni and Council President Cantor.

Also present were: Mayor Robert Kleinberg, Andrew Bayer, Esq., Business Administrator Judith Tiernan, Municipal Clerk Alida Manco, and Deputy Clerk Deborah Usalowicz.

Councilman Pernice moved that the minutes of August 2, 2007, be approved. This motion was seconded by Council Vice President Rosenthal and the minutes were passed on a roll call vote of 4 - 0 in favor with Councilwoman Morelli abstaining.

Council President Cantor opened the Public Hearing on Ordinance # 2007-15 (Amend Chapter 147 - Wreckers). After the Public Hearing was held and closed, There was a discussion between Council members during which they made specific

recommendations. After discussion, the following Res. # 2007-283/Ord. # 2007-15 (Amend Chapter 147 - Wreckers) was introduced by reference as amended, offered by Councilwoman Morelli and seconded by Council President Cantor and passed on a roll call vote of 4 - 1 in favor, with Councilman Pernice voting no.

RESOLUTION # 2007-283

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2007-15 (As Amended)

AN ORDINANCE AMENDING CHAPTER 147, "WRECKERS" OF THE CODE
OF THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on September 20, 2007 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2007-15 (As Amended)

AN ORDINANCE AMENDING CHAPTER 147, "WRECKERS" OF THE CODE
OF THE TOWNSHIP OF MARLBORO

WHEREAS, Chapter 147 of the Code of the Township of Marlboro ("Township") sets forth the requirements regarding the licensure and use of wreckers in the Township; and

WHEREAS, the Traffic and Safety Bureau of the Division of Police in the Township have found that it is necessary to make certain changes to the requirements for licensure and use of wreckers in the Township; and

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter 147 "Wreckers" be and hereby is amended to read as follows:

§ 147-2. License required.

B. There shall be a total of seven (7) licenses issued by the Business Administrator or her designee. There will be no limit on how many towing equipment vehicles may be licensed per business license.

§ 147-7. Denial of license.

In the event that the Business Administrator denies such application, written notification of such denial shall be mailed to the applicant within three days of such denial. The applicant may, within 10 days thereafter, appeal such denial to the Review Committee, which shall hold a hearing for the purpose of reviewing such determination within 30 days of the receipt of such notice of appeal. The Review Committee shall be comprised of the Mayor, the Mayor's Designee, the Chief of Police (or his designee), and a member of Township Council.

§ 147-10. License fee.

The fee for the issuance of a wrecker's license shall be the sum of \$30.00 for the business and \$20.00 for each item of towing equipment (i.e., flatbeds, wheel lifts and conventional wreckers).

§ 147-12. Safety requirements.

C. Contain no rotating lights or sirens except by permission granted by the Chief of Police.

§ 147-14. Maximum rates.

C. Cleanup of accident scene: \$25.00 per hour. First 15 minutes is included in the tow and after the first 15 minutes of clean-up the fee will be \$25.00 per hour plus \$15.00 per bag of speedy dry if the full bag is utilized.

§ 147-16. Customer receipt and price quotation.

A. The operator of a wrecker shall advise the customer of the charges for services to be rendered in advance of his rendition and give the customer a receipt for the fee paid.

B. A quarterly report will be provided to the Township of Marlboro reflecting all monies collected for all towing and storage charges along with any other additional fees charged. This report will be sent to the Marlboro Township/ Traffic Safety Bureau.

§ 147-19. Suspension or revocation of license.

A license issued under this chapter may be suspended or revoked by the Chief of Police or some member of the police force designated by him for the violation of any provision of this chapter or any regulations adopted thereunder; provided, however, that the Chief of Police or his designee shall impose the progressive discipline set forth within §147-20(D). Upon such suspension or revocation, the licensee shall be entitled, by application in writing, to a hearing before the Review Committee, as to whether the suspension should be revoked or adjusted or as to whether the license should be restored. The Review Committee shall have the authority to restore said license, affirm the suspension and/or adjust the length of such suspension, or revoke any license issued under this chapter for the violation of any provision of this chapter or any regulations adopted thereunder. The Review Committee shall cause to be served upon said licensee, not less than five days before the hearing on any license suspension or revocation, written charges, and said applicant may file written answers thereto not less than two days prior to said hearing, and said licensee shall be entitled to be represented by counsel and present his defense to said charges.

§ 147-20. Establishment of authorized call list.

D. The Chief of Police or his designee shall maintain a record of all calls placed to the wreckers on the call list. In the event that a wrecker fails to respond to calls received, the wrecker shall be subject to progressive discipline as follows:

(1) In the event that a wrecker fails to respond to 65% or more of all calls received by that wrecker in one calendar month, then the wrecker shall be suspended for the following three (3) calendar months.

(2) If a wrecker fails to respond to 65% or more of all calls received by that wrecker for two calendar months in the same year, whether or not they are consecutive, then the wrecker shall be terminated and shall be ineligible to re-apply for licensure under this Chapter for a period of three (3) years.

A copy of the response record shall be made available to a wrecker who is suspended or terminated.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, this Ordinance shall take effect on December 1, 2007, in accordance with applicable law.

The following Res. # 2007-284/Ord. # 2007-18 (Amending Pay to Play) was introduced by reference, offered by Councilman Pernice and seconded by Councilwoman Morelli. Discussion followed, during which Mayor Kleinberg and all Council members voiced their support. After discussion, the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-284

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2007-18

ORDINANCE ADOPTING SPECIAL PAY-TO-PLAY RESTRICTIONS
FOR PROFESSIONAL SERVICE CONTRACTS, EXTRAORDINARY
UNSPECIFIABLE SERVICE CONTRACTS AND DEVELOPERS
AND RE-DEVELOPERS

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on September 20, 2007 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2007-18

ORDINANCE ADOPTING SPECIAL PAY-TO-PLAY RESTRICTIONS
FOR PROFESSIONAL SERVICE CONTRACTS, EXTRAORDINARY
UNSPECIFIABLE SERVICE CONTRACTS AND DEVELOPERS
AND RE-DEVELOPERS

WHEREAS, substantial political contributions from those seeking to or performing business within the Township of Marlboro raise reasonable concerns on the part of taxpayers and residents as to their trust in government contracts; and

WHEREAS, the Township Council adopted Ordinance #2004-5 which precluded professional business entities which are seeking or which entered into a contract with Marlboro Township from entering into or continuing that contract if that entity or its principals who own 10% or more of the equity in the business entity made political contributions to a campaign committee of a Marlboro Township candidate, to a Marlboro Township or Monmouth county party committee or any PAC supporting Township candidates in excess of \$400.00 to each candidate, \$500 to a party committee or an aggregate not to exceed \$2,500 per professional business entity; and

WHEREAS, the Legislature adopted Pay to Play Legislation, P.L.2005, c.271., which affirmed that municipalities are authorized to adopt by ordinance measures limited the awarding of public contracts to business entities that have made political contributions and limited the contributions that the holders of a contract can make during the term of a contract; and

WHEREAS, pursuant to P.L. 2005, c.271., business entities receiving no-bid contracts are required to submit a list of political contributions that were made by the business entity during the preceding 12-month period; and

WHEREAS, the Council of the Township of Marlboro hereby declares that upon the effective date of this ordinance all professional and extraordinary unspecifiable service contracts shall be subject to the restrictions contained herein; and

WHEREAS, in the absence of the State adopting comprehensive pay-to-play reform with anti-wheeling protection, and due to a history of contributions made to candidates for office in the Township of Marlboro and Township of Marlboro political parties by entities from outside of the Township, and in the interest of good government, the Council of the Township of Marlboro desires to

establish a policy that will avoid the perception of improper influence in awarding government contracts; and

WHEREAS, it has become more frequent for developers and redevelopers to make substantial political contributions to the election campaigns for local government offices, and to the political parties which support them; and

WHEREAS, the local government officials are, once elected, responsible for deciding the terms of a development and/or redevelopment agreement; and

WHEREAS, political contributions from developers entering into agreements for development and/or redevelopment projects approved by the elected officials who receive such contributions raises reasonable concerns on the part of taxpayers and residents as to their trust in the process of local redevelopment, including but not limited to redevelopment decisions on tax abatements, zoning densities, publicly funded infrastructure improvements, and acquisition of property rights pursuant to eminent domain; and

WHEREAS, there have been a number of elected and appointed officials in Marlboro Township who have either plead guilty or have been found guilty in connection with receiving unlawful payments from developers; and

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. provides a mechanism to empower and assist local governments in efforts to promote programs for redevelopment; and

WHEREAS, N.J.S.A. 40A:12A-8 allows municipalities or a designated redevelopment entity to enter into agreements with redevelopers for planning, replanning, construction or undertaking of any project or redevelopment work without public bidding and at such prices and upon such terms as it deems reasonable within areas designated for redevelopment; and

WHEREAS, N.J.S.A. 40A:12A-11 provides that redevelopment entities are instrumentalities of the municipality; and

WHEREAS, both the exceptions to the Open Public Meetings Act, more specifically N.J.S.A. 10:4-12b and N.J.S.A. 40A:12A-8, provide that negotiations for such agreements can be conducted in executive session, provided the full terms of any such agreements are discussed and approved in open session; and

WHEREAS, the Township of Marlboro has declared, or in the future may declare, certain areas to be "Areas in Need of Redevelopment" under the Local Redevelopment and Housing Law, and may adopt a Redevelopment Plan; and

WHEREAS, given the potential of negotiating with private developers and/or redevelopers and the entering into developer agreements upon receipt of land use approvals pursuant to the Municipal Land Use Law or agreements with redevelopers without a formal public bidding process, as permitted by the Local Redevelopment and Housing Law, it is necessary to establish certain limitations on political contributions which may undermine public confidence in any redevelopment effort; and

WHEREAS, the policy of the Township of Marlboro will be to create such a regulation which states that any entity or individual seeking to enter into a developers agreement, a redevelopment agreement or amendment thereto, or is otherwise seeking to obtain rights to develop pursuant to a redevelopment agreement and who makes political contributions to Marlboro elected officials and/or candidates for local office, and local and Township political committees, will be ineligible to enter into such agreements, or receive such rights from the Township of Marlboro.

NOW, THEREFORE, IT IS HEREBY ORDAINED, by the Municipal Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter 26, Public Contracts, of the Township of Marlboro is deleted entirely and replaced with the following:

§26-1. Prohibition on Awarding Public Contracts to Certain Contributors.

(a) To the extend that it is not inconsistent with state or federal law, the Township of Marlboro and any of its purchasing agents or departments or instrumentalities of the Township thereof, as the case may be, shall not enter into any agreement or otherwise contract to procure services from any "business entity" as defined herein, including those awarded pursuant to any process including a fair and open process regardless of the amount of the contact, if such "business entity" has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, in excess of the thresholds specified in subsection 1(d) within one calendar year immediately preceding the Township's public announcement of or private solicitation of a request for proposals, to:

- (i) Any Township candidate or holder of a public office having ultimate responsibility for the award of the contract, or
- (ii) any campaign committee of such a candidate or holder of public office, or
- (iii) any Township of Marlboro municipal party, or
- (iv) any county party committee within the State of New Jersey,

or

(v) any candidate committee, state or Township political party committee, legislative leadership committee, continuing political committee or political action committee (PAC) organized under §572 of the Internal Revenue Code, that is organized for the purpose of promoting or supporting Township candidates or Township officeholders and/or that has within the last calendar year provided financial or in-kind support to Township of Marlboro municipal elections and/or Township of Marlboro municipal or Township parties.

(b) No "business entity" that submits a proposal for, or agrees to any contract or agreement (including non-emergency contracts awarded by N.J.S.A. 40A:11 *et seq.* or the "Fair and Open Process" pursuant to N.J.S.A. 19:44A-20 *et seq.*) with the Township or any departments thereof, as the case may be, shall knowingly solicit or make any contribution of money, pledge of contribution, including in-kind contributions in excess of the thresholds specified in subsection 1(d), between the time of the first public announcement or private solicitation of a request for proposals, as the case may be, and the later of the awarding of the contract to another proposer, or written withdrawal of the proposal, or, as to the successful applicant, the completion of the contract or agreement, except as permitted in section 1(d) to:

(i) any Township candidate or holder of public office having ultimate responsibility for the award of the contract, or

(ii) any campaign committee of such a candidate or holder of public office, or

(iii) any Township of Marlboro municipal party; or

(iv) any county party committee within the State of New Jersey; or

(v) any candidate committee, state or Township political party committee, legislative leadership committee, continuing political committee or political action committee (PAC) organized under §527 of the Internal Revenue Code, that is organized for the purpose of promoting or supporting Township candidates or Township officeholders and/or that has within the last calendar year provided financial or in-kind support to Township of Marlboro municipal elections and/or Township of Marlboro municipal or Township parties.

(c) For purposes of this ordinance, a "business entity" seeking a public contract means:

(i) any professional or provider of extraordinary unspecificable services as defined in N.J.S.A. 40A:11-5(1)(a), and

(ii) an individual including the individual's spouse, if any, and any child living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a "business entity" includes all principals who own 10% or more of the equity in the corporation or business trust, partnership, and officer employed by the entity, as well as any subsidiaries directly controlled by the business entity.

(iii) A "business entity" does not include non-for-profit organizations or their officers or board members.

(d) Any individual meeting the definition of "business entity" under this section may annually contribute a maximum of \$300 each for any purpose to any candidate for Township of Marlboro office, \$300 to municipal party committees within Township of Marlboro, \$300 to a county party committee, \$300 to any state political party committee, and \$300 to any candidate committee or political action committee (PAC) organized under §527 of the Internal Revenue Code, referenced in this ordinance, without violating subsection (a) or (b) of this section. However, any group of individuals meeting the definition of "business entity" under this section, including principals, partners, and officers of the entity in the aggregate, may not contribute for any purpose in excess of \$2,500 to all Township of Marlboro candidates and officeholders with ultimate responsibility for the award of the contract, and all municipal or Township political parties, candidate committees, county political parties, state political parties, legislative leadership committees, continuing political committee, and PACs referenced in this ordinance combined, without violating subsection (a) or (b) of this section.

(e) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be the Township of Marlboro and any of its political sub-divisions, or any individual who is responsible for the award of a contract and is appointed by the Township of Marlboro, including the Township Council and the Mayor.

§26-2. Contributions Made Prior to the Effective Date.

This ordinance does not apply retroactively. Political contributions, whether monetary or "in-kind," made prior to the effective date of this ordinance shall not be deemed to be a violation of this ordinance, but rather shall be controlled by the provisions of Ordinance #2004-5.

§26-3. Disclosure & Contribution Statement by Professional Business Entity and Provider of Extraordinary Unspecifiable Services.

(a) Any business entity seeking a contract shall file a Public Disclosure Statement along with the proposal by the "business entity" consistent with the requirements of P.L. 2005, c.271, which must be filed no later than ten days prior to the awarding of a contract or agreement to procure services. The Township or any of its purchasing agents or agencies, as the case may be, shall maintain a completed Township of Marlboro Public Disclosure Statement form and provide that for public review at the Township Purchasing Department. The Township of Marlboro Public Disclosure

Statement shall list all of the reportable political contributions by the "business entity" to any state, Township, or municipal committee of a political party; any legislative leadership committee; or any candidate committee of a candidate for, holder of, an elective office of Township of Marlboro; or of another elective office within Township of Marlboro; or of a legislative district which includes all or part of Township of Marlboro; or any continuing political committee, within one calendar year immediately preceding the Township's public announcement or private solicitation of a request for proposals, noting the candidate or campaign committee, the amount and date, and the nature of the contribution.

(b) The "business entity" will make the statement knowing that under penalty of perjury that it has not made a contribution in violation of the Ordinance hereof and has not made or solicited contributions through intermediaries, third parties, immediate relatives, candidate committees, or Political Action Committees for the purpose of concealing the source of the contributor(s).

(c) Filing an incorrect Public Disclosure Form may be deemed a breach of the contract and shall result in the "business entity" being debarred from being awarded any Township contract for a period of four years.

(d) The "business entity" shall have a continuing duty to report any violations of this Ordinance that may occur during the duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with Township of Marlboro and shall be in addition to any other certifications that may be required by any other provision of law. At a minimum, completion of the Public Disclosure Statement will be an annual requirement of the "business entity."

(e) The annual Disclosure Form shall be filed within twenty (20) days following each anniversary of the proposal, if for a multi-year agreement.

§26-4. Prohibition of entering into and/or amending development and/or redevelopment agreements with certain contributors.

(a). Any other provision of law to the contrary notwithstanding, the Township of Marlboro or any of its, purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement, amend an agreement, or otherwise contract with any developer and/or redeveloper, as defined in Subsection C. below, for the planning; replanning, construction or undertaking of any development and/or redevelopment project including the acquisition or leasing of any public property in conjunction with the redevelopment of any area within the Township of Marlboro pursuant to the Local Redevelopment and Housing Law and/or the Municipal Land Use Law, if that developer and/or redeveloper has

knowingly solicited or made any contribution of money, pledge of contribution, including in-kind contributions in excess of the thresholds specified in Section 1(d) above, within one calendar year immediately preceding the date of entering into the developers agreement, redevelopment agreement, amended agreement, or contract (hereinafter "agreement"), except as permitted in Section 1(d) above to:

(i) any Township candidate or holder of public office having ultimate responsibility for the award of the contract, or

(ii) any campaign committee of such a candidate or holder of public office, or

(iii) any Township of Marlboro municipal party committee;
or

(iv) any county party committee within the State of New Jersey;
or

(v) any candidate committee, state political party committee, legislative leadership committee, continuing political committee or political action committee (PAC) organized under §527 of the Internal Revenue Code, that is organized for the purpose of promoting or supporting Township candidates or Township officeholders and/or that has within the last calendar year provided financial or in-kind support to Township of Marlboro municipal elections and/or Township of Marlboro municipal or Township parties.

(b). All Developer Agreements or amendments thereto and/or Redevelopment Agreements entered into by the Township of Marlboro shall contain a provision prohibiting developers and/or redevelopers, as defined in Subsection C below, to solicit or make any contribution in excess of the thresholds specified in Section 1 subsection (d) above.

(c). A "developer" or "redeveloper" means any person, firm, corporation, partnership, limited liability company, organization, association, or public body that shall enter into or propose to enter into an agreement with a municipality or other redevelopment entity for the development of property pursuant to the Municipal Land Use Law, redevelopment or rehabilitation of an area in need of redevelopment, or an area in need of rehabilitation, or any part thereof, under the provisions of the Local Redevelopment and Housing Law, or for any construction or other work forming part of a development or redevelopment or rehabilitation project. For the purposes of this section the definition of a developer or redeveloper includes all principals who own ten percent (10%) or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the developer and/or redeveloper as well as any affiliates or subsidiaries directly controlled by the developer or redeveloper. Spouses and any child/children shall also be included.

(d). For the purposes of this section, the office that is considered to have responsibility for arranging and entering into the development agreement or redevelopment agreement shall be (i) the Township Council if the developers agreement or development agreement requires approval and/or appropriation from the Township Council or a public officer who is responsible for arranging and entering into the developers agreement or redevelopment agreement if that public officer is appointed by the Mayor and/or Township Council, or (ii) the Mayor of the Township of Marlboro if the developers agreement or redevelopment agreement requires the approval of the Mayor or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by the Mayor, or (iii) a designated redevelopment entity, if the redevelopment agreement requires the approval of the redevelopment entity.

§26-5. Contribution Statement of Developers and/or Redevelopers; Notice given by Municipality.

(a). Prior to arranging and entering into a Developer's Agreement or Redevelopment Agreement with any developer or redeveloper, the Township of Marlboro or any of its purchasing agents or agencies or independent authorities, as the case may be, shall receive a sworn statement from the developer or redeveloper that the developer or redeveloper has not made any contribution in violation of Section 1, subsection (d) above. The Township of Marlboro, through any appropriate redevelopment agent, agency, officer, authority, or department, shall be responsible for informing the Mayor and the Township Council that the aforementioned sworn statement has been received and that the developer or redeveloper is not in violation of this Ordinance, prior to entering into any Developer's Agreement or Redevelopment Agreement. Furthermore, the developer or redeveloper shall have a continuing duty to report any violations of this chapter that may occur while arranging and entering into the Developer's Agreement or redevelopment agreement, and until all specified terms or time period of the agreement have been completed. The certification required under this subsection shall be made prior to entry into the agreement with the municipality and shall be in addition to any other certifications that may be required by any other provision of law.

(b). It shall be the Township's continuing responsibility to give notice of this Ordinance to all developers who file any application with the municipality, its land use boards and/or any of its political subdivisions, including but not limited to the Planning Board or Zoning Board, to develop any tract of land within the municipality and/or when the municipality gives notice of redevelopment pursuant to 40A:12A-6 and/or when the municipality

adopts a ordinance directing the Planning Board to prepare a redevelopment plan and at the time that the municipality adopts the ordinance to implement the redevelopment plan.

§26-6. Contribution restrictions and disclosure requirement applicability to consultants.

(a). The contribution and disclosure requirements in this chapter shall apply to all developers and/or redevelopers as well as professionals, consultants or lobbyists contracted or employed by the developer and/or redeveloper including those ultimately, designated by the developer/redeveloper to provide services related to the: (i) lobbying of government officials in connection with the examination of an area and its designation as an area in need of redevelopment or in connection with the preparation, consultation and adoption of the redevelopment plan; (ii) obtaining the designation or appointment as redeveloper; (iii) negotiating the terms of a developer's agreement or redevelopment agreement or any amendments or modifications thereto; and (iv) performing the terms of a developer's agreement or redevelopment agreement.

(b). It shall be a breach of the consultant's contract with the developer and/or redeveloper, and shall require immediate termination, for a consultant to violate the contribution limits and disclosure requirements in this ordinance.

(c). A developer or redeveloper who participates in, or facilitates, the circumvention of the contribution restrictions through consultants or professionals shall be deemed to be in breach.

§26-7. Return of Excess Contributions.

A "business entity," developer, or redeveloper, or Township of Marlboro Candidate or officeholder, or municipal, county or state party committee, candidate committee, legislative leadership committee, continuing political committee or PAC referenced in this ordinance, may cure a violation of Section 1 of this Ordinance, if, within 30 days after the applicable ELEC report, the "business entity" notifies the Township of Marlboro in writing and seeks and received reimbursement of the contribution from the relevant candidate or officeholder, municipal or county political party, state political party, candidate committee, legislative leadership committee, continuing political committee, or PAC referenced in this ordinance.

§26-8. Penalty and Anti-Circumvention Provision.

(a) It shall be a breach of a contract with Township of Marlboro for a "business entity," developer or redeveloper to (i) make or solicit a contribution in violation of this ordinance; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit a contribution through intermediaries for the purpose of concealing or misrepresenting the source of the

contribution; (iv) make or solicit any contribution on the condition of or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of Township of Marlboro; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make any contribution, which if made or solicited by the "business entity" itself, would violate this ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members and employees; (vii) engage in any exchange of contribution to circumvent the intent of this ordinance; or (viii) directly or indirectly, through or by any other person or means do any act which would violate this ordinance.

(b) Furthermore, any "business entity," developer or redeveloper that violates §7(a)ii-viii shall be debarred from eligibility for future Township of Marlboro contracts or for entering into a developers agreement or redevelopment agreement for a period of four (4) calendar years from the date of the violation.

§26-9. Anti-Wheeling Restrictions.

(a) No candidate committee for any candidate for Township of Marlboro office shall accept a contribution from a Township committee of a political party, other than the Township committee of the Township in which the candidate or candidates reside, in excess of \$1,000 per election.

(b) No candidate committee for any candidate for Township of Marlboro shall accept a contribution from a county political party in excess of \$1,000 per election.

(c) No candidate committee for any candidate for Township of Marlboro shall accept a contribution from a state political party in excess of \$1,000 per election.

(d) No candidate committee for any candidate for Township of Marlboro office shall accept a contribution from a legislative leadership committee in excess of \$1,000 per election.

(e) No candidate committee for any candidate for Township of Marlboro shall accept a contribution from a continuing political committee or PAC organized under §527 of the Internal Revenue Code in excess of \$1,000 per election.

(f) No candidate committee for any candidate for Township of Marlboro office shall accept a contribution from another candidate committee, other than from a candidate committee located in the Township of Marlboro, in excess of \$1,000 per election.

(g) No candidate committee for any candidate for Township of Marlboro shall accept a contribution from a municipal political party committee, other than a municipal political party committee of a municipality located in Township of Marlboro, in excess of \$1,000 per election.

(h) Any candidate or candidate committee who has taken contributions in excess of those outlined in Section 8(a)-(f) of this Ordinance shall be subject to a fine not exceeding \$2,000 per violation, pursuant to N.J.S.A. 40:49-5.

§26-10. Severability.

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid by a court of the United States or this State, or by any administrative agency of the United States or this State, the remaining provisions shall remain in effect.

§26-11. Repealer.

This ordinance supplements, but does not supersede the contribution disclosure requirements, under P.L. 2004, c 19, s.7 amended P.L. 2005, c. 51, s. 15 (N.J.S.A. 19:44A-20.8) and P.L. 2005, c. 271, s. 2 (N.J.S.A. 19:44A-20.26), for contracts awarded through other than a fair and open process. All ordinances or parts of ordinances that are inconsistent with any provisions of this ordinance are hereby repealed to the extent of such inconsistencies.

§26-12. Incorporation by Reference.

The regulatory and penalty provisions of this Ordinance shall be incorporated by referenced into all Township of Marlboro contracts for professional services and extraordinary unspecifiable services and developer's agreements and redevelopment agreements.

§26-13. Filing with Secretary of State.

The Clerk of the Township of Marlboro shall file a certified true copy of this Ordinance with the Secretary of State, in accordance with N.J.S.A. 40A:11-51(c).

§26-14. Effective Date.

This ordinance shall take effect in accordance with law.

The following Res. # 2007-285/Ord. # 2007-19 (Amending Certificates of Continued Occupancy Ordinance) was introduced by reference, offered by Councilman Pernice and seconded by Councilwoman Morelli. Discussion followed, after which the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-285

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2007-19

AN ORDINANCE AMENDING CHAPTER 113 "PROPERTY MAINTENANCE",
§ 113-2 "CERTIFICATE OF CONTINUED OCCUPANCY"
OF THE CODE OF THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on September 20, 2007 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2007-19

AN ORDINANCE AMENDING CHAPTER 113 "PROPERTY MAINTENANCE",
§ 113-2 "CERTIFICATE OF CONTINUED OCCUPANCY"
OF THE CODE OF THE TOWNSHIP OF MARLBORO

WHEREAS, Chapter 113 "Property Maintenance", §113-2 "Certificates of Continued Occupancy" of the Code of the Township of Marlboro ("Township") sets forth the regulations regarding certificates of continued occupancy in the Township; and

WHEREAS, the Township Council has determined that it is in the best interests of the Township to clarify that a determination from the Zoning Officer is required prior to the issuance of a certificate of continued occupancy in order to ensure that future owners of parcels of property are not required to obtain a permit from the Zoning Office or obtain a variance from the Zoning Board of Adjustment in order to ratify the construction of structure(s) and/or improvement(s) built by prior owners of such property; and

WHEREAS, the Township Council further seeks to grandfather structures and/or improvements which were built prior to 1990 without the requisite permit or approval from the requirement to later secure that permit or other approval in order to obtain a certificate of continuing occupancy and/or in order to otherwise bring that structure and/or property into compliance with the Township's ordinances; and

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter §113-2 "Certificates of Continued Occupancy"

be and hereby is amended as follows (additions to said subsection are underlined and deletions are crossed-out):

§ 113-2. Certificates of Continued Occupancy.

(1) No person shall sell, transfer, lease or rent any structure located within the Township of Marlboro unless a certificate of continued occupancy certifying that said structure is in compliance with all provisions of the current version of the International Housing Maintenance Code ~~BOCA Basic/National Existing Structures Code~~ and all other applicable ordinances of the Township of Marlboro is issued.

(2) No certificate of continued occupancy shall be issued by the Township until the Zoning Officer determines that all structures were built in conformance with the applicable ordinances of the Township and the property owner submits to the Zoning and Construction Offices a Home Improvement Form, which form has been approved by the Construction Office, Zoning Office and the Township Administrator.

(3) All non-conforming structures (structures built without the required permit or approval or built in violation of applicable Township ordinances) that existed on a parcel of property prior to 1990 shall be exempt from the requirement to obtain the requisite approval for that structure in order to remain in compliance with the Township's ordinances and/or in order to obtain a certificate of continued occupancy, provided that:

a. The structure is not being replaced. If such non-conforming structure is being replaced, the replacement structure must comply with the current version of the International Housing Maintenance Code and all other applicable zoning standards and ordinances of the Township of Marlboro; and

b. The structure does not present a threat to public health, safety, or welfare. If the structure presents a threat to public health, safety and welfare, as determined by the Building Inspector or Zoning Officer, the structure must be replaced in conformance with the current version of the International Housing Maintenance Code and all other applicable zoning standards and ordinances of the Township of Marlboro; and

c. The property owner submits an affidavit to the Township attesting that the structure was built prior to 1990 and that the property owner agrees to indemnify and hold the Township of Marlboro, its officer, agents and employees harmless from and on

account of any and all incidents and/or damages arising from the structure(s) and/or improvement(s) that were built prior to 1990.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED that this Ordinance shall take effect on upon passage and publication in accordance with applicable law.

The following Res. # 2007-286/Ord. # 2007-20 (Amending Chapter 84 - RSCS Ordinance) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor. Andrew Bayer, Esq. explained the ordinance.

RESOLUTION # 2007-286

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2007-20

AN ORDINANCE AMENDING CHAPTER § 84-45.1 "RSCS SENIOR
CITIZEN RESIDENTIAL AND SINGLE-FAMILY DISTRICT"
OF THE CODE OF THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on September 20, 2007 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2007-20

AN ORDINANCE AMENDING CHAPTER § 84-45.1 "RSCS SENIOR
CITIZEN RESIDENTIAL AND SINGLE-FAMILY DISTRICT"
OF THE CODE OF THE TOWNSHIP OF MARLBORO

WHEREAS, Chapter 84-45.1 of the Code of the Township of Marlboro ("Township") sets forth the regulations regarding Senior Citizen Residential and Single-Family Districts ("RSCS District") in the Township; and

WHEREAS, pursuant to N.J.S.A. 40:55D-89, the Township of Marlboro Planning Board undertook a general reexamination of the Township of Marlboro Master Plan and development regulations; and

WHEREAS, the Planning Board adopted a report entitled "Statement of Objectives and Land Use Plan Element of the Marlboro Township Master Plan" (the "Report") setting forth the findings of such reexamination and recommending, in addition to other changes, deletion of all exceptions to the age restriction requirements and an increase in the maximum lot size of the properties within the RSCS District; and

WHEREAS, the Township Council accepted the recommendations of the Planning Board with respect to the RSCS District by adopting Ordinance #2005-31 (the "RSCS Ordinance"), which, in part, deleted all exceptions to the age restrictions found in the RSCS District and it also increased the minimum lot area of the properties within the RSCS District to 10,000 square feet; and

WHEREAS, the Township Council has determined that it is necessary to add a grandfathering clause to the RSCS District section of the Township Code in order to make it less burdensome to add improvements for residents who own a non-conforming lot as a result of the implementation of the RSCS Ordinance; and

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter §84-45.1 "Senior Citizen Residential and Single-Family District" be and hereby is amended as follows (additions to said subsection are underlined and deletions are crossed-out):

§ 84-45.1. RSCS Senior Citizen Residential and Single-Family District.

(B) Grandfathering Clause. The requirements of Ordinance 2005-31 shall not apply to any property that is in full compliance with the requirements of the RSCS Senior Citizen Residential and Single-Family District zoning district and any other applicable State and Township laws and requirements, provided that said property will not be further subdivided. Should an application to subdivide be made to the Township, the property owner will then be required to meet the current zoning standards established for the RSCS Senior Citizen Residential and Single-Family District, including the requirements established by Ordinance 2005-31.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect on upon passage and publication in accordance with applicable law.

The following Resolution # 2007-287 (Opposing Sale, Lease or Other Liquidation of Turnpike, Garden State Parkway and AC Expressway) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-287

A RESOLUTION BY THE TOWNSHIP OF MARLBORO AFFIRMING
OPPOSITION TO THE SALE, LEASE OR OTHER LIQUIDATION
OF THE NEW JERSEY TURNPIKE, THE GARDEN STATE
PARKWAY AND THE ATLANTIC CITY EXPRESSWAY

WHEREAS, the following language appears at paragraph 75 of the Fiscal Year 2008 Budget of the State of New Jersey adopted by the Legislature: "There are appropriated such sums as may be necessary for legal and engineering fees, financial advisors and other consultants and services associated with, as well as any other costs determined necessary in preparation for the monetization, sale, or lease of public assets..."; and

WHEREAS, this language was requested by the Governor so

that he may pursue the sale or lease or other liquidation of the New Jersey Turnpike, the Garden State Parkway and the Atlantic City Expressway in an attempt to address the mounting debt burden imposed on the taxpayers by the State of New Jersey; and

WHEREAS, the Corzine Administration has publicly stated that specific details of the asset sale shall not be disclosed to the public until after the November legislative elections, but it has confirmed that the revenue this asset sale will produce is needed to balance a projected multi-billion-dollar hole in the FY 2009 budget; and

WHEREAS, other states such as Indiana and Texas, facing similar budgetary shortfalls, have resorted to leasing their toll roads to private entities in exchange for a much-needed cash infusion to fund state debt and state services, which efforts have proven to be a detriment to the taxpayers; and

WHEREAS, it has been indicated that tolls on these roadways would be required to increase annually faster than the rate of inflation in order to finance this liquidation scheme, thus resulting in a direct tax increase upon the citizens and business owners of the Township and the State in connection with family travel, commuting and delivery of good and services; and

WHEREAS, Governor Corzine has made it clear that it is his intention to sell or lease or mortgage through "monetizing" these important State assets, and particularly by entering into an agreement for the sale or lease or other liquidation of the New Jersey Turnpike, Garden State Parkway and the Atlantic City Expressway as a means of raising revenue for the State; and

WHEREAS, the New Jersey Turnpike, the Garden State Parkway and the Atlantic City Expressway are vital corridors to the State's transportation system, widely traveled by residents of the Township, and particularly critical for evacuation purposes during emergencies and coastal storms; and

WHEREAS, any sale or lease of the New Jersey Turnpike, the Garden State Parkway and the Atlantic City Expressway could result in a major increase in toll charges for the use of the State's toll roads and unduly jeopardize the quality of the State's transportation system as the State would no longer have the ability to ensure reasonable tolls, provide well-maintained highways and facilities and safe monitoring for all those using the toll roads; and

WHEREAS any sale or lease of the New Jersey Turnpike, the Garden State Parkway and the Atlantic City Expressway could result in increasing the volumes of tractor trailer traffic on non-toll roads in the region increasing the hazard to passenger vehicles and resulting in an increase in local property taxes to

deal with the increased costs of roadway and bridge maintenance;
and

WHEREAS, increased truck traffic will accelerate the deterioration of state and local roadways, result in more traffic congestion and create a safety hazard to motorists and pedestrians alike; and

WHEREAS, placing the transportation network of the State of New Jersey into private hands where profit is valued above safety is not in the best interests of the residents of this State; and

WHEREAS, the sale of toll roads will not achieve long-term financial stability for the State and could relinquish control of our roadways for as long as 75 or more years; and

WHEREAS, it is altogether fitting and proper for the Township Council of Marlboro Township to express its opposition to the sale or lease or other liquidation of the New Jersey Turnpike, the Garden State Parkway, and the Atlantic City Expressway.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey that it is opposed to any sale or lease or other liquidation of the New Jersey Turnpike, the Garden State Parkway, and/or the Atlantic City Expressway because:

a) it would unduly jeopardize the quality of the State's transportation system and the safety of our citizens by increasing volumes on non-toll roads in the region;

b) the State of New Jersey would no longer have the ability to ensure reasonable tolls, provide well-maintained highways and facilities and safe motoring for all those using the toll roads;

c) critical evacuation routes for citizens of the Township would be outside the control of state and local officials, thus jeopardizing the safety of thousands of men, women and children; and

d) the liquidation of these state assets will result in annual toll increases and property tax increases associated with maintaining battered local roadways, which the Mayor and Township Council adamantly opposes.

BE IT FURTHER RESOLVED that the Mayor and Township Council of the Township of Marlboro, by way of this Resolution, express their opposition to the sale or lease or other liquidation of the New Jersey Turnpike, the Garden State Parkway and/or and Atlantic City Expressway.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Governor Jon Corzine
- b. Commissioner of the New Jersey Department of Transportation
- c. New Jersey Senate and General Assembly
- d. Senator Ellen Karcher
- e. Assemblywoman Jennifer Beck
- f. Assemblyman Michael Panter

The following Resolution # 2007-288 (Adding Depository - Ocean First Bank) was introduced by reference, offered by Council Vice President Rosenthal and seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-288

DESIGNATING ADDITIONAL DEPOSITORY

WHEREAS, under the provisions of state regulations (N.J.S.A. 40A:5-1) entitled Local Fiscal Affairs Law, the Township of Marlboro in accordance with N.J.S.A.40A:5-14 hereby establishes Legal Depositories for public monies for the calendar year 2007. Further, recent amendment to N.J.S.A. 40A:5-15.1 entitled "Securities which may be purchased by local units" provide added flexibility to secure high yield investments while safe guarding Municipal assets.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, as follows:

The following banking institutions approved by the Department of Banking and Insurance under the Government Unit Depository Protection Act (GUDPA) or other authorized investment vehicles authorized by the State of New Jersey are hereby designated as official depositories of Township funds:

OCEAN FIRST BANK

The following Resolution # 2007-289 (Authorizing Lease & Agreement - MCIA) was introduced by reference, offered by Councilwoman Tragni and seconded by Council Vice President Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-289

A RESOLUTION OF THE TOWNSHIP OF MARLBORO, NEW JERSEY, APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AND AGREEMENT WITH THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY TO FINANCE THE ACQUISITION OF CERTAIN CAPITAL EQUIPMENT WHICH WILL BE LEASED BY THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY TO THE TOWNSHIP OF MARLBORO, NEW JERSEY; APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LETTER OF REPRESENTATION AND A CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE ISSUANCE AND DELIVERY OF THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY'S CAPITAL EQUIPMENT POOLED LEASE REVENUE BONDS, SERIES 2007 AND AUTHORIZING AN AUTHORIZED MUNICIPAL REPRESENTATIVE TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION WITH THE ISSUANCE, SALE AND DELIVERY OF SUCH BONDS

WHEREAS, the Township of Marlboro, New Jersey (the "Municipality") desires to lease and permanently finance the cost of acquisition of certain capital equipment (the "Equipment") from The Monmouth County Improvement Authority (the "Authority"); and

WHEREAS, the Authority will provide for the financing of the cost of the acquisition of the Equipment by the issuance of its Capital Equipment Lease Revenue Bonds, Series 2007 (Marlboro Project) in an aggregate principal amount not to exceed \$575,000 (the "Bonds") payable from rentals by the Municipality pursuant to a lease and agreement by and between the Municipality and the Authority; and

WHEREAS, Municipality and the County of Monmouth, New Jersey, will each unconditionally and irrevocably guaranty the punctual payment of the principal of and the interest on the Bonds; and

WHEREAS, there have been prepared and submitted to the Municipality forms of: (a) a Lease and Agreement by and between the Municipality and the Authority, to be dated as of August 1, 2007 (the "Agreement"), attached hereto as Exhibit A; and (b) a Letter of Representation, to be dated the date of delivery of the Bonds (the "Letter of Representation"), attached hereto as Exhibit B; and

WHEREAS, there has been prepared and submitted to the Municipality a Continuing Disclosure Agreement in the form appended hereto as Exhibit C for execution by the Municipality if the Authority shall determine that the Municipality is or will be an "obligated person" with respect to the Authority's Capital Equipment Lease Revenue Bonds, Series 2007 within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission (an "Obligated Person");

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP OF MARLBORO, NEW JERSEY, AS FOLLOWS:

Section 1. That the Agreement, in substantially the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative (as that term is defined in the Agreement) is hereby authorized to, and one of such officers shall, execute the Agreement, with such additions, deletions or modifications as such officer shall approve, and to deliver the same to the Authority, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 2. That the Letter of Representation, in the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative is hereby authorized to, and one of such officers shall execute the Letter of Representation, with such additions, deletions or modifications as such officer shall approve, and to deliver the same to the addressees designated on such Letter of Representation, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. That the Continuing Disclosure Agreement, in the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative is hereby authorized to, and one of such officers shall execute the Continuing Disclosure Agreement, with such additions, deletions or modifications as such officer shall approve, and to deliver the same upon the determination by the Authority that the Municipality is or will be an Obligated Person, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. That any Authorized Municipal Representative is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for the execution and delivery of the Agreement and for carrying out the sale, issuance and delivery of the Bonds, the Authority's Capital Equipment Pooled Lease Revenue Bonds, Series 2007 and all related transactions contemplated by this resolution.

Section 5. All resolutions or proceedings, or parts thereof, in conflict with the provisions of this resolution are to the extent of such conflict hereby repealed

Section 6. This resolution shall become effective immediately.

The following Resolution # 2007-290 (Emergency Appropriation - Curb/Gutters) was introduced by reference, offered by Councilwoman Morelli and seconded by Councilwoman Tragni. Discussion followed, during which Public Works Director Robert

DiMarco answered Council's questions. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-290

RESOLUTION ACKNOWLEDGING EMERGENCY AND AUTHORIZING
PAYMENT IN EXCESS OF THE AMOUNT OF APPROVED CONTRACT

WHEREAS, R&B Builders were awarded a \$42,510 contract in a previous resolution passed by this governing body for the replacement of concrete curbs and gutters for the installation of handicapped ramps from the 2007 Road Improvement Program appropriation contained within Ordinance # 2007-12, and

WHEREAS, during the work associated with such services, extensive and unforeseen damage was found to exist which necessitated additional work, up and beyond the services considered in the scope of the original contract, and

WHEREAS, Township Director of Public Works, Robert DiMarco has reviewed the situation at hand and finds it is necessary to complete this stage of work prior to the commencement of the next stage of work in the progression of completing said project, and

WHEREAS, funding currently exists within ordinance #2007-12 for such purpose,

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby acknowledges the existence of an emergency as determined by Township Attorney, Andrew Bayer. This Council also acknowledges that the situation at hand necessitates and hereby approves an additional amount be appropriated, and the contract be amended for R&B Builders. The amount of contract modification has been recommended in an additional amount not to exceed \$40,000.00 by Township Director of Public Works, Robert DiMarco.

BE IT FURTHER RESOLVED, a certified copy of this Resolution shall be provided to each of the following:

- a. R & B Builders, Inc.
21 First Street
South River, NJ 08882
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Director of Public Works
- e. Gluck Walrath LLP

The following Resolution # 2007-291 (Cancelling Taxes - Geoghegan Property, Block 120, L. 36) was introduced by reference, offered by Council Vice President Rosenthal and seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-291

WHEREAS, there are taxes for the year 2007 that remain outstanding on the following property as designated on the Marlboro Township Tax Map: Block 120 Lot 36, located on 82 Tennent Road,

WHEREAS, the aforementioned property was conveyed to the Township of Marlboro, and the Township Tax Collector has therefore recommended that the same be cancelled.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to cancel the balance of the 2007 taxes totaling \$2,276.62 as stated above.

Councilwoman Morelli asked that Resolution # 2007-263 (Tabled 8/2) Award of Bid - Hot Tack Distributor) be removed from the consent agenda. The following Resolution # 2007-263 (Tabled 8/2) Award of Bid - Hot Tack Distributor) was introduced by reference, offered by Councilwoman Morelli and seconded by Council Vice President Rosenthal. Discussion followed, during which Public Works Director Robert DiMarco and Public Works Superintendent Danny Peterson were present to answer Council's questions. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-263

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT
FOR THE PROVISION OF ONE (1) NEW TUBE FIRED
HOT TACK DISTRIBUTOR AND RELATED EQUIPMENT FOR
THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the provision of one (1) new tube fired hot tack distributor and related equipment for the Township of Marlboro Department of Public Works; and

WHEREAS, the Township received two (2) bids from the following vendors in the following amounts:

- A. Seely Equipment and Supply Company
1325 Highway 34
Farmingdale, NJ 07727
\$37,695.00
- B. IMSupplies, Inc.
4200 Chambers Hill Road - PO Box 4128
Harrisburg, PA 17111-0128
\$25,379.00; and

WHEREAS, pursuant to a review of all bids received, it was determined that IMSupplies, Inc. did not submit a responsive bid; and

WHEREAS, the Administration, the Director of Public Works, and the Township Attorney determined that Seely Equipment and Supply Company was the lowest responsive bidder submitting a bid compliant with the specifications promulgated by the Township; and

WHEREAS, the Administration, the Director of Public Works, and the Township Attorney recommend that the contract be awarded to Seely Equipment and Supply Company as the lowest qualified bidder; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award said contract to the lowest qualified bidder, Seely Equipment and Supply Company, for the provision of one (1) new tube fired hot tack distributor and related equipment for the Township of Marlboro Department of Public Works.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the bid submitted by IMSupplies, Inc. is rejected as legally noncompliant; and

BE IF FURTHER RESOLVED, that the contract for the provision of one (1) new tube fired hot tack distributor and related equipment for the Township of Marlboro Department of Public Works be and hereby is awarded to Seely Equipment and Supply Company, and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Seely Equipment and Supply Company for provision of one (1) new tube fired hot tack distributor and related equipment for the Township of Marlboro Department of Public Works in an amount not

to exceed \$37,695.00, and in accordance with the bid proposal submitted by Seely Equipment and Supply Company; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has executed a Certification of Funds for this contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number X-04-55-960-960 (\$9,695) and X-04-55-962-926 (\$28,000); and

BE IT FURTHER RESOLVED, a certified copy of this Resolution shall be provided to each of the following:

- a. Seely Equipment and Supply Company
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Gluck WalrathLLP.

The following Resolution # 2007-292 (Authorizing Professional Services Contract - Birdsall - DEP Permitting) was introduced by reference, offered by Councilwoman Morelli and seconded by Council Vice President Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-292

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES CONTRACT BETWEEN BIRDSALL ENGINEERING, INC.
AND THE TOWNSHIP OF MARLBORO FOR DEP PERMITTING

WHEREAS, the Township of Marlboro is in need of engineering services to provide the necessary DEP permitting so that the Marlboro Township Public Works Department can desilt a 500 foot portion of Deep Run to alleviate a flooding problem; and

WHEREAS, the Township has requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, Birdsall Engineering, Inc. has submitted the attached work authorization form (proposal) dated July 25, 2007 (the "Proposal") to the Township of Marlboro to provide the aforementioned professional services for an amount not to exceed \$5,900.00; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire Birdsall

Engineering, Inc. to provide the required professional services in accordance with the proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute a contract, in a form legally acceptable to the Township Attorney, between Birdsall Engineering, Inc. and the Township of Marlboro to provide the required professional services in accordance with the proposal; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a certification of funds for the contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number T-16-58-856-806.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Birdsall Engineering, Inc.
611 Industrial Way West
Eatontown, NJ 07724-2213
- b. Township Administrator
- c. Township Chief Financial Officer
- d. GluckWalrath, LLP

The following Resolution # 2007-293 (Authorizing Professional Services Contract - City Connections - Website) was introduced by reference, offered by Council Vice President Rosenthal and seconded by Councilwoman Morelli. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-293

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT
BETWEEN THE TOWNSHIP OF MARLBORO AND CITY CONNECTIONS FOR
WEBSITE AND E-MAIL HOSTING SERVICES AND OTHER RELATED
TECHNICAL SERVICES FOR THE TOWNSHIP OF MARLBORO WEBSITES

WHEREAS, the Township of Marlboro Administration Department has informed the Township Council that a need exists for the Township of Marlboro to enter into a contract for the provision website and e-mail hosting services and other related technical services, including development and maintenance, for the Township of Marlboro websites (collectively, the "Website Maintenance Services"); and

WHEREAS, the Administration Department sought proposals to provide the Website Maintenance Services from three qualified companies; and

WHEREAS, City Connections submitted a proposal dated April 6, 2007 and end on April 7, 2008 to provide the Website Maintenance Services for an amount not to exceed \$6,154.00; and

WHEREAS, said proposal included a detailed listing of the services that would be provided and included an extensive list of municipal references, including the New Jersey State League of Municipalities; and

WHEREAS, the Administration Department has recommended that the Township Council authorize the execution of a contract between the Township of Marlboro and City Connections for the provision of the Website Maintenance Services; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to enter into a contract with City Connections; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, authorizes the awarding of a contract for the provision of extraordinary and unspecified services without public advertising for bids and bidding therefore.

NOW, THERE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and City

Connections for the provision of the Website Maintenance Services for an amount not to exceed \$6,154.00.

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. City Connections
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath, LLP

The following Resolution # 2007-294 (Authorizing Grant NJDEP - Marlboro Township Park - Phase II) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-294

STATE OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL
PROTECTION GREEN ACRES ENABLING RESOLUTION

WHEREAS, the New Jersey Department of Environmental Protection, Green Acres Program ("State"), provides loans and/or grants to municipal and county governments and grants to nonprofit organizations for assistance in the acquisition and development of lands for outdoor recreation and conservation purposes; and

WHEREAS, the Township of Marlboro desires to further the public interest by obtaining a grant in the amount of \$650,000 from the State to fund the following project: Marlboro Township Park Improvements, Phase II at a cost of \$2,600,000;

NOW, THEREFORE, the governing body resolves that Robert Kleinberg or the successor to the office of Mayor is hereby authorized to:

- (a) make application for such a loan and/or such a grant,
- (b) provide additional application information and furnish such documents as may be required, and
- (c) act as the authorized correspondent of the above named applicant; and

WHEREAS, the State shall determine if the application is complete and in conformance with the scope and intent of the Green Acres Program, and notify the applicant of the amount of the funding award; and

WHEREAS, the applicant is willing to use the State's funds in accordance with such rules, regulations and applicable statutes, and is willing to enter into an agreement with the State for the above named project;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro as follows:

1. That the Mayor of the above named body is hereby authorized to execute an agreement and any amendment thereto with the State known as Marlboro Township Park, Phase II;

2. That the applicant has its matching share of the project, if a match is required, in the amount of \$1,950,000.

3. That, in the event the State's funds are less than the total project cost specified above, the applicant has the balance of funding necessary to complete the project;

4. That the applicant agrees to comply with all applicable federal, state, and local laws, rules, and regulations in its performance of the project; and

5. That this resolution shall take effect immediately.
- a. State of New Jersey Department of Environmental Protection, Green Acres Program
 - b. Township Business Administrator
 - c. Township Chief Financial Officer

The following Resolution # 2007-295 (Chapter 159 - Di Meo Property) was introduced by reference, offered by Councilwoman Morelli and seconded by Council Vice President Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-295

RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE
AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

Section 1

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2007 in the sum of \$121,748.00, which item is now available as a revenue from the New Jersey Economic Development Authority, and

Section 2

BE IT FURTHER RESOLVED that the sum of \$121,748.00 is hereby appropriated under the caption "Hazardous Discharge Site Remediation Fund Grant".

The following Resolution # 2007-296 (Chapter 159 - Hospital Property) was introduced by reference, offered by Council Vice President Rosenthal and seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-296

RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

Section 1

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2007 in the sum of \$126,909.00, which item is now available as a revenue from the New Jersey Economic Development Authority, and

Section 2

BE IT FURTHER RESOLVED that the sum of \$126,909.00 is hereby appropriated under the caption "Hazardous Discharge Site Remediation Fund Grant".

Regarding Item 21 - Setting Special Council Meeting - Rt. 18 Noise Issues - Sept. 27th Open Public Forum - 7:00 pm - Town Hall) - There was a brief discussion between Council members, after which the following Resolution #2007-304 (Setting Special Meeting - September 27, 2007 - 7 PM - Open Public Forum on Route 18 Noise Issues) was introduced by reference, offered by Council Vice President Rosenthal and seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-304

BE IT RESOLVED by the Marlboro Township Council that a "Special" Council Meeting will be held on the following date and times:

September 27, 2007 - 7:00 PM

at the Marlboro Municipal Complex ,1979 Township Drive, Marlboro, N. J. 07746. The purpose of this special meeting is to hold an Open Public Forum on Route 18 Noise issues. Citizen's Voice will be limited to 15 minutes. It is anticipated that no action will be taken.

As the consent agenda, the following Resolutions were introduced by reference, offered by Councilman Pernice, seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor: Res. #2007-297 (Change Order #1 - Emergency Generator, Res. #2007-298 (Authorization to Bid - Replacement of HVAC Unit for Library), Res. #2007-264 (Tabled 8/2) Award of Bid - Six Wheel Broom Street Sweeper), Res. #2007-299 (Award of Bid - Roll Off Container), Res. #2007-300 (Reject Bid - Lightning Warning

and Wireless System), Res. #2007-301 (Raffle License - Marlboro Elementary PTA) and Res. #2007-303 (Mortgage Subordination - 8 Wicker Place - B. 108, L. 20).

RESOLUTION # 2007-297

RESOLUTION AUTHORIZING CHANGE ORDER NO.1,
EMERGENCY GENERATOR, MUNICIPAL COMPLEX

WHEREAS, by Resolution #2006-331, the Township of Marlboro awarded a contract to Electro Maintenance, Inc. of Farmingdale, NJ for the replacement of emergency generators for the Township of Marlboro Municipal Complex for an amount not to exceed \$139,349.00; and

WHEREAS, it was found that the fumes from the diesel engine powering the generator leaked into a portion of the municipal complex housing the Zoning and Building Departments causing several employees to become sick.

WHEREAS, the Director of Public Works recommends the authorization of Change Order No. 1 increasing that Agreement in the amount of \$139,349.00 for a total contract amount of \$154,168.00, due to modification of the installation.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro as follows:

1. That the Mayor is hereby authorized to execute and the Municipal Clerk to attest to Change Order No. 1 to the contract between the Township of Marlboro and Electro Maintenance, Inc. of Farmingdale, NJ, in the form attached hereto, for an amount totaling \$14,819.00;
2. That a certified copy of this resolution shall be provided to each of the following:
 - A. Electro Maintenance, Inc.
 - B. Business Administrator
 - C. Director of Public Works
 - D. Chief Financial Officer
 - E. Gluck Walrath, LLP

RESOLUTION # 2007-298

BE IT RESOLVED by the Township Council of the Township of Marlboro that the Business Administrator is hereby authorized and directed to advertise for open competitive bids for the following said work, and/or materials as required by law:

HVAC Air Handler - Marlboro Public Library

RESOLUTION # 2007-264

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT
FOR THE PROVISION OF ONE (1) NEW 2007 MODEL
SIX WHEEL BROOM STREET SWEEPER FOR THE
TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the provision of one (1) new 2007 model six wheel broom street sweeper for the Township of Marlboro Department of Public Works; and

WHEREAS, the Township received one (1) bid from the following vendor:

W.E. Timmerman Co., Inc.
3554 Route 200 West, PO Box 71
Whitehouse, NJ 08888
Base Bid: \$195,500.00
Option for Lifeline Hopper Liner: \$ 3,125.00

WHEREAS, the Administration, the Director of Public Works, and the Township Attorney determined that W.E. Timmerman Co., Inc. is the lowest responsive bidder submitting a bid compliant with the specifications promulgated by the Township; and

WHEREAS, the Administration, the Director of Public Works, and the Township Attorney recommend that the contract be awarded to W.E. Timmerman Co., Inc. as the lowest qualified bidder; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award said contract to the lowest qualified bidder, W.E. Timmerman Co., Inc., for the provision of one (1) new 2007 model six wheel broom street sweeper for the Township of Marlboro Department of Public Works including the optional Lifeline Hopper Liner.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the contract

for the provision of one (1) new 2007 model six wheel broom street sweeper for the Township of Marlboro Department of Public Works including a Lifeline Hopper Liner be and hereby is awarded to W.E. Timmerman Co., Inc., and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and W.E. Timmerman Co., Inc. for provision of one (1) new 2007 model six wheel broom street sweeper for the Township of Marlboro Department of Public Works including a Lifeline Hopper Liner in an amount not to exceed \$198,625.00, and in accordance with the bid proposal submitted by W.E. Timmerman Co., Inc.; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has executed a Certification of Funds for this contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number X-04-55-962-931; and

BE IT FURTHER RESOLVED, a certified copy of this Resolution shall be provided to each of the following:

- a. W.E. Timmerman Co., Inc.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Gluck WalrathLLP.

RESOLUTION # 2007-299

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR THE
PROVISION OF ONE NEW ROLL OFF CONTAINER TRUCK WITH RELATED
EQUIPMENT TO THE TOWNSHIP OF MARLBORO

WHEREAS, the Township of Marlboro ("Township") has authorized the acceptance of bids for the provision of one new 2007 or newer roll off container truck with related equipment for the Township; and

WHEREAS, the Township received one (1) bid from the following vendor in the following amount:

- A. Cambria Automotive Companies, Inc.
116 Talmadge Road, Edison, NJ 08817
 - Truck Chassis & Material
 - Transport System \$163,761.00
 - Snowplow Complete \$ 13,700.00
 - (1)15 Cubic Yard Container \$ 3,425.00
 - (1)20 Cubic Yard Container \$ 3,990.00

(1)30 Cubic Yard Container	\$ 4,375.00
Alternate 1:	\$ 37,718.00
Alternate 2:	\$ 10,001.00

WHEREAS, the Administration and the Township Attorney have reviewed the bid and recommend that the contract be awarded to Cambria Automotive Companies, Inc., as the lowest qualified bidder; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township to award said contract to the lowest qualified bidder, Cambria Automotive Companies, Inc., for the provision of one new 2007 or newer roll off container truck with related equipment.

WHEREAS, in accordance with the bid specifications and consistent with the needs of the Township, the award of contract shall be for the following materials in the following amount and shall not include the alternate items:

One (1) Truck Chassis & Material Transport System	\$163,761.00
One (1) Snowplow Complete	\$ 13,700.00
Two (2) 15 Cubic Yard Containers	\$ 6,850.00
Six (6) 30 Cubic Yard Containers	\$ 26,250.00
Total Contract Award:	\$210,561.00.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the contract for the provision of one new 2007 or newer roll off container truck with related equipment and not to include the alternate items, be and hereby is awarded to Cambria Automotive Companies, Inc., and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township and Cambria Automotive Companies, Inc. for the provision of: one (1) truck chassis & material transport system, one (1) snowplow, two (2) 15 cubic yard containers, and six (6) 30 cubic yard containers, in an amount not to exceed \$210,561.00, and in accordance with the bid proposal submitted by Cambria Automotive Companies, Inc.; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for this contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number G-07-41-201-301, X-04-55-962-932, G-07-41-200-301; and

BE IT FURTHER RESOLVED, a certified copy of this Resolution shall be provided to each of the following:

- a. Cambria Automotive Companies, Inc.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Gluck WalrathLLP

RESOLUTION # 2007-300

A RESOLUTION REJECTING THE BID RECEIVED FOR THE
PROVISION OF LIGHTNING, WARNING, AND WIRELESS SIREN
SYSTEMS FOR THE MARLBORO TOWNSHIP RECREATION DEPARTMENT

BE IT RESOLVED by the Township Council of the Township of Marlboro that the bid heretofore received for the provision of Lightning, Warning, and Wireless Siren Systems is hereby rejected as unresponsive to the bid specifications and the Business Administrator is authorized and directed to return the bid bond or other security to the appropriate bidder; and

RESOLUTION # 2007-301

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 15 -07 (On-Premise Merchandise) be and it is hereby granted to Marlboro Elementary School PTA, 100 School Road West, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on September 25, 2007 from 7 - 10 PM at Marlboro Elementary School, 100 School Road West, Marlboro, N. J. 07746.

RESOLUTION # 2005-303

A RESOLUTION AUTHORIZING THE SUBORDINATION
OF A TOWNSHIP-HELD MORTGAGE RELATING TO
PROPERTY LOCATED AT 8 WICKER PLACE (BLOCK 108, LOT 20
ON THE MARLBORO TOWNSHIP TAX MAP)

WHEREAS, Elaine Nunez (the "Owner") is the record owner of certain real property located at 8 Wicker Place in the Township which is designated on the Marlboro Township Tax Map as Block 108, Lot 20 (the "Property"); and

WHEREAS, the Property is presently encumbered with a first mortgage (the "First Mortgage") granted to ALTA Financial Mortgage Company and assigned to ABN Amro Mortgage Company) in the current amount of approximately \$87,309.82; and

WHEREAS, on or about October 24, 2004, the Owner granted a second mortgage in the amount of \$15,500.00 to the Township and this mortgage was recorded on November 16, 2004 in Mortgage Book OR-8415 at Page 9042 (the "Township Mortgage"); and

WHEREAS, the purpose of the Township Mortgage was to secure the payment of expenses related to certain rehabilitation work which was performed at the Property pursuant to and in accordance with the Township's Affordable Housing Program; and

WHEREAS, the Township Mortgage provides that if the Owner resides in the Property as her primary residence for a period of six (6) consecutive years, this debt will be forgiven and the Township Mortgage will be discharged; and

WHEREAS, the Owner now seeks to refinance the existing First Mortgage through a new reverse mortgage in the amount of \$376,500.00 with Wells Fargo Bank NA #747 ("Wells Fargo")(the "Reverse Mortgage"), with such Reverse Mortgage being secured by the Federal Housing Administration (the "FHA"); and

WHEREAS, as a condition of approving the refinancing of the Reverse Mortgage, Wells Fargo is requiring the Township of Marlboro to execute a Subordination Agreement acknowledging that the Township Mortgage will be subordinate to the Reverse Mortgage; and

WHEREAS, the Administration and the Township of Marlboro Engineering Department have determined that there is sufficient equity in the refinancing to satisfy the Township Mortgage (if it is necessary that the Township Mortgage be satisfied).

NOW, THEREFORE, BE AND IT HEREBY IS RESOLVED by the Township Council of the Township of Marlboro that the Township Mortgage shall be subordinated to the Mortgage issued by Wells Fargo Bank NA #747 and secured by the Federal Housing Administration; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute any and all documents, in a form acceptable to the Township Attorney, that are necessary to effectuate the subordination of the Township Mortgage to the Reverse Mortgage; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Chancellor Title Agency, Inc.
- b. COAH Coordinator

- c. Elaine Nunez
- d. Gluck WalrathLLP.

The following items were carried to the September 20, 2007 agenda:
Item # 23 (Tax Collector Resolutions).

At 11:15PM, Councilwoman Morelli moved that the meeting go into executive session for reason of discussing personnel and potential litigation. This was seconded by Council President Cantor, and as there was no objection, the Clerk was asked to cast one ballot. Recess was called and the executive session reconvened at 11:25 PM.

RESOLUTION # 2007-302

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 6th day of September, 2007 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely, personnel matters.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned item and that such executive session should take approximately 30 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 11:50 PM, Councilwoman Tragni moved to open the meeting. This was seconded by Councilman Pernice, and as there was no objection, the Clerk was asked to cast one ballot.

At 11:51PM, Councilwoman Tragni moved that the meeting be adjourned. This was seconded by Councilwoman Morelli, and as there was no objection, the Clerk was asked to cast one ballot.

SECONDED BY: Morelli

NAYS: 0

ALIDA MANCO,
MUNICIPAL CLERK

JEFF CANTOR,
COUNCIL PRESIDENT